

TO

SH

To
Ho

a

for
Li
for
Fi
sc

P
T

th
b

co
re
p

E
P

s
u
to
v
i
c
R
c
h
a
l

M
C
M
M



T.R.

A4-2370



P 971.05
.M58

PETITION.

MAY 7 1937

TO THE HONORABLE THE LEGISLATIVE ASSEMBLY OF THE PROVINCE
OF CANADA, IN PROVINCIAL PARLIAMENT ASSEMBLED:

The Humble Petition of John Montgomery, of the City of Toronto, Hotel-keeper,

SHEWETH,—

That your Petitioner, in December, 1837, was the owner of a 240 acre Farm in the Township of York, near Toronto, on which he had, at great expense, erected a very large Hotel, together with numerous and substantial outbuildings.

2. That, in July of that year, he had leased and rented said Hotel to John Linfoot for a term of years, together with part of the furniture.

3. That on Monday, December the 4th, same year, a large body of armed men took forcible possession of said Hotel and outbuildings, then being in the occupation of said Linfoot, petitioner's tenant, and continued to keep possession thereof until the Thursday following, when they were attacked by the Queen's forces, under the command of Sir Francis Bond Head, then Lieutenant Governor of Upper Canada, and were speedily scattered or taken prisoners.

4. That Her Majesty's forces, then being in the possession of the Hotel of your Petitioner, immediately set fire to and burned it, with all the outbuildings, to the ground. The Insurance money was of course lost

5. That a large quantity of Furniture and other property of your Humble Petitioner, then stored and being in the said Hotel and outbuildings, was at the same time consumed by said fire.

6. That your Petitioner was then boarding in the Hotel with his family, until he could complete a dwelling-house, then nearly finished, and to which he was about to remove; but which, after the ill-timed destruction of his property aforesaid, he was compelled to dispose of to Mr. Price, afterwards Commissioner of Crown Lands.

7. That after the defeat and entire dispersion of said armed party by the Royal Forces, your Petitioner was thrown into prison, accused of having aided and abetted said party in its unlawful objects.

8. That your Petitioner was brought to trial before a Court, composed of persons of strong partizan feelings; persons hostile to him, highly excited and influenced by the unhappy events, then very recent, as well as by a threatened invasion of Canada, which took place in November, 1838; and that, in the absence of numerous witnesses, some of whom were in prison and others abroad, who could and would have proved his entire innocence; and upon very loose, illegal evidence, given by persons of little character or credibility, your Petitioner was convicted of high treason. In the memorable Report of Her Majesty's Lord High Commissioner, the late Earl of Durham, presented by the Royal command in February, 1839, to the Lords and Commons of England, the Commissioner bears his testimony to a well-known truth, that impartial trials in political matters, adjudicated in the Canadian Courts, were, in the troublous times of 1838, scarcely to be hoped for.

9. That, at the time of your Petitioner's trial, the people of the Canadas had earnestly but vainly urged upon the Government of Great Britain, and had petitioned the House of Commons, to have those laws amended which might enable a Sheriff chosen during the pleasure of the authorities here, to select such a jury in any political cause as the Crown Lawyers of the time might wish for, in cases where the authorities of Canada desired to produce a certain result. Trial by jury, a protection given in form to the subject, might

become in reality a cruel snare. In the unhappy cases of Messrs. Lount and Matthews, who were put to death on the scaffold, soon after your Petitioner was tried, the Crown Lawyers secretly submitting to the Executive Council of Upper Canada certain specific and secret statements and charges against these honest men, in aggravation of their offence, which secret charges the condemned never heard of, nor did their Counsel know of them; and, although the Imperial Government had advised moderation, the prayer of 30,000 Canadians to the then Lieutenant Governor and Council here, that Messrs. Lount and Matthews might have the benefit of the Queen's judgment on said prayer for mercy, through a brief delay in the execution of the sentence, was promptly rejected. With such Courts, such practises, and in such a time of party strife and excitement, small chance had any of the friends of progress to obtain British justice in Canada.

10. Your Petitioner solemnly declares, and by the return from distant lands of many persons then cognizant of Petitioner's actions, he is in a position to prove that he did not aid or encourage the aforesaid armed party, or take part in their unlawful acts. He had been for many years a friend to assisting by Constitutional means to redress the bitter wrongs under which his country labored, as they are ably set forth in the report of the Queen and Parliament's Commissioner, the late Earl of Durham; but your Petitioner denies that he ever violated the law as charged, though never proved against him; so far from aiding or encouraging the discontented in their extreme measures, he strongly remonstrated against their occupation of his premises, and urged those with whom he could venture to speak, to give up their unlawful purpose and return to their homes, many of whom, as can be shown, acted upon his advice.

11. That the present Governor of the Windward Islands, formerly Finance Minister in Canada, and who was a resident of Toronto in 1837 and 1838, gave the following voluntary testimony on your Petitioner's behalf at Montreal, Oct. 11th, 1845: "Of all men in Canada, Mr. Montgomery is the last who should be exposed to political persecution; his sufferings have been enough, one would suppose, to extinguish the hatred of the most revengeful. At the time of the rebellion, his large tavern was deliberately and most wantonly burned to the ground, by which act he was subjected to a loss of \$10,000, suffered long imprisonment—broke his leg,—experienced great domestic affliction,—many years of exile,—and is broken down in health and in circumstances."

12. Your Humble Petitioner, previous to the forcible occupation and wanton destruction of his premises by the Royal Forces, was a large landed proprietor, in comfortable circumstances, then filling the offices of a Commissioner for the roads of York County—a Director with Mr. Doel, Mr. Beaty, Mr. Harper, Mr. Lesslie, Governor Hincks, and others, of one of the Banks in Toronto,—also a Director of the Mutual Insurance Company here—and hoped, for the remainder of his life, to enjoy in the bosom of his family, and under the protection of just and equal laws, the fruits of many years' labor; but, without any cause or wilful default by him, he was suddenly deprived of a large part of his property, through the act of the then Governor and authorities of Upper Canada, was accused of treason, being imprisoned and convicted by a partizan tribunal upon partial, and, he believes, illegal evidence. Of the twelve Jurors who sat upon the trial at Toronto, April 2nd, 1838, several are yet alive and willing to testify that, in their opinion, the evidence your Petitioner can now produce, had it been then forthcoming, would have prevented a conviction; and that, if the trial were to take place here now, your Petitioner would be promptly acquitted.

13. Through these wrongs done him by those who had been chosen to protect life and property, your Petitioner has been reduced to a state of great poverty, his family broken up, his health destroyed; and, in his old age, he is left dependent for support upon the charitable disposition of others.

14. That your Petitioner, injured as he has been by a partial trial in the midst of violent excitement and party strife, by a conviction in times when to seize and try a Reformer was to condemn and punish, and, by the want of an early amnesty, has long been deprived of a hearing; his petitions have been rejected; his character impeached, and this in the name of the Queen; while Her Majesty's Finance Minister, though an active Annexationist in 1849, and her Attorney General East, though a price was set on his head in 1838, are now enabled to nullify all your Petitioner's efforts for any investigation; and although Mr. L. J. Papineau, whose leadership in the movement of 1837 no one

denies, g
of his s
acted as
destroye
and with
Elgin w

15.
may, in
scrupulo
to cause
in Cana

16.
Queen, i
Governor
General,

17.
great Pr
and prov
an impar
in succes
Petitione
on earth
or before

You
of the cr
of redre
appear to

You

TOR

denies, got \$18,000 of a claim in public money, and a very valuable office for life to one of his sons; and Mr. David Gibson, who was elected a captain of the Insurgents, and acted as such, had his house burned down, when your Petitioner's property was utterly destroyed, in both cases, by the express command of the Queen's Lieutenant Governor and without the slightest necessity; Mr. Gibson being compensated by Governor Lord Elgin with an office worth about \$2,000 a-year.

15. That to withhold all inquiry in the case of your Humble Petitioner for 24 years, may, in view of the above treatment of others, be held by many to be a departure from that scrupulous faith and equal justice which it is the ardent desire of your Honorable House to cause to be observed by the servants of the Crown towards the Queen's devoted subjects in Canada.

16. That, not long since, your Petitioner addressed an humble Memorial to the Queen, in substance nearly as above, and forwarded it to London through the present Governor General. What comments were made, if any, by His Excellency or the Attorney General, when it went to Europe, your Petitioner knoweth not.

17. Your Petitioner has, during many a weary winter day, attended the sittings of the great Provincial Council of Canada, appointed to inquire into the complaints of the people and provide for the redress of their substantial wrongs, humbly but most earnestly praying an impartial investigation into his very peculiar case; but although many members have, in successive Legislatures, been favorable to inquiry, it is thus far withheld, although your Petitioner, an impoverished, broken-down man, now in his seventieth year, and whose days on earth cannot be many, has never had a hearing, either before a Committee of the House or before any officer appointed by the Crown.

Your Petitioner prays your Honorable House to inquire into the character and extent of the cruel wrongs suffered by him, as above; and to grant or recommend such a measure of redress or relief as the evidence shall clearly warrant and the exigency of his case appear to require, after the fullest investigation.

Your Petitioner, as in duty bound, will ever pray.

(Signed)

JOHN MONTGOMERY.

TORONTO, April 3rd, 1861.

4th Session, 6th Parliament, 24 Victoria, 1861.

P E T I T I O N

Of JOHN MONTGOMERY, of the City of Toronto.

Ordered, by the LEGISLATIVE ASSEMBLY, to be printed, 22nd April, 1861.

Printed, 26th April, 1861.

(Hon. Mr. FOLEY.)

QUEBEC:
PRINTED BY THOMPSON, HUNTER & CO.,
STE. URSULE STREET.

becom
who v
Lawy
and s
which
and, a
Canad
Matth
throu
such
chanc
10.
perso
aid o
been
wron
Quee
denie
from
remo
could
many
1
in Ca
volun
" me
" tion
" the
" mo
" —
" ma
tion
circu
Direc
other
pany
and
with
his p
accus
and,
Apri
evid
prev
woul
and
brok
upon
viole
Refor
depri
this
Ann
head
and

4th Session, 6th Parliament, 24 Victoria, 1861.

PETITION